

EXECUTIVE OFFICER'S SUMMARY REPORT
8:30 a.m., August 9, 2006
Regional Water Quality Control Board
Hearing Room
5550 Skylane Blvd., Suite A
Santa Rosa, California

ITEM: 4

SUBJECT: PUBLIC HEARING to consider Resolution No. R1-2006-0042 and Order No. R1-2006-0043, Watershed-wide Waste Discharge Requirements For Timber Harvesting Plan Activities Conducted by, or On Land Owned by, the Green Diamond Resource Company in the South Fork Elk River Watershed, Humboldt County

INTRODUCTION

Pursuant to previous Board direction staff has prepared and hereby presents proposed Watershed-wide Waste Discharge Requirements (WWDRs) for the second largest landowner in the South Fork Elk River watershed, Green Diamond Resource Company hereinafter (GRDC).

The proposed WWDRs for GRDC use the same science and data as was recently applied in the Pacific Lumber Company (Palco) WWDRs for South Fork Elk River. The significant difference between the two permits is the project proposals by the two dischargers. After an approximately 11-year near-hiatus of operations in this watershed, GRDC proposes a scale and intensity of land disturbing activities (timber harvest related activities) that is less than what the application of the Empirical Harvest-Related Landslide Sediment Delivery Reduction Model (Landslide Reduction Model) would produce as a limit to achieve water quality standards. Therefore, in staff's opinion, so long as GRDC's operations remain consistent with their management plan, no imposition of an effluent limit expressed in terms of acreage is necessary. The proposed WWDRs ensure that operations covered by these WWDRs remain within the scale and intensity set out in GRDC's Report of Waste Discharge by using a three-year rolling averages a permit condition to measure compliance with that plan.

Other aspects of these proposed WWDRs are nearly identical to the WWDRs adopted for Palco in this watershed, as discussed briefly below.

DISCUSSION

GDRC owns land and/or conducts timber harvesting, forestry management, road construction and maintenance, and related activities on approximately 1900 acres in the McCloud Creek watershed, a major tributary to the 12,442 acre South Fork Elk River watershed. Due largely to the controversy and high-profile nature of other company's activities in this watershed, GDRC has not had any significant timber harvesting plan activities on these lands since the mid-1990s. The lands could benefit from such activities, as it would allow the repair and/or cleanup of controllable sediment sites, and the thinning of overgrown stands of timber.

Representatives of California Department of Forestry and Fire Protection, California Department of Fish and Game, California Geological Survey (formerly the California Division of Mines and Geology), and the Regional Water Board reached consensus on December 16, 1997, that Elk River and Freshwater Creek had endured significant adverse cumulative watershed impacts, with timber harvesting a contributing factor.

The Regional Water Board passed a series of motions on December 3, 2003, finding that additional regulatory actions were “necessary to address the water quality impacts due to the rate and scale of land disturbing activities in the five watersheds [which includes Elk River].” Among the Regional Water Board’s specific instructions was a motion directing staff to issue requests for Reports of Waste Discharge (ROWDs), leading to WWDRs for sediment generating activities in the Elk River. The Executive Officer issued an order with specified information requirements on June 17, 2004, requiring the Discharger to submit ROWDs for its activities in the Elk River and watershed.

Regional Water Board staff and staff of the GDRC have worked together to draft these WWDRs using scientifically sound and watershed-specific technical data and tools, consistent with the approach in the Palco WWDRs, and providing a commensurate level of water quality protection. It has been a successful collaborative process. At this writing there remains a small issue of the description of the effluent limitations in the WWDRs that we hope to have resolved prior to the hearing.

The WWDRs were forwarded to the Office of Planning and Research, and posted and circulated for public comment on June 28, 2006, with the attendant CEQA documents. The final deadline for submittal of written comments was July 16, 2006. Two comments were received, and staff prepared a response. The paucity of comments resulted in no significant changes to the permit. None of the proposed changes are substantively significant and all are within the scope of the original notice and CEQA documents.

PROPOSED REGULATORY APPROACH

Sediment Reduction

These WWDRs take a similar approach to the other WWDRs in the watershed. There are analogous components to each part of the Palco WWDRs in the South Fork Elk River:

- Remediation and cleanup of controllable sediment sources are required under these WWDRs (through the South Fork Elk Management Plan.) It will be accomplished by taking an iterative, year-by-year approach. This is similar to the mechanism of Palco’s Cleanup and Abatement Orders. Sediment sources on the primary access roads and spurs have already been inventoried and are known, and similar inventories are ongoing on other roads in this parcel. Non-road related sites will be addressed in this fashion: as a THP is operated on, following submittal to and approval by CDF, and enrollment under this order, all road and non-road related sites will be addressed on a “compartment”, or zonal basis. By the time all logging activities are done, all non-road related sites should have

been addressed. Because the inventory for these sites is not complete it is not certain how long it will take to deal with all sites.

- Erosion Control Plans (ECPs) will be submitted with each THP, analogous to the approach under the General WDRs for Timber Harvest Activities utilized on other lands owned by the Discharger and within our region as a whole. All controllable sediment discharge sites (CSDSs) on the THPs themselves, and on appurtenant roads, will be addressed during logging operations. The WWDRs require that an ECP be prepared for all areas in which timber harvest operations will be conducted, including in-unit areas and roads appurtenant to the logging units. The ECP provides an inventory of all the CSDS's located within the project area. The ECP also requires disclosure of proposed corrective actions (management measures) and an implementation schedule for the treatment of all CSDS sites during the life of the THP.

Special Prescriptions

Instead of special logging prescriptions under a Habitat Conservation Plan (HCP), GDRC will institute the "South Fork Elk River Management Plan." This plan contains prescriptions for riparian zones; geologically sensitive lands; harvesting, yarding, and hauling activities; road management, including sediment reduction, decommissioning, upgrading, maintenance, and new road construction; and seasonal restrictions.

Addressing Cumulative Effects

Under these WWDR's, the discharger will log approximately 750 acres in a 15 year timeframe, which began in 2001. This means that approximately 75 acres will be logged each year for the next ten years, and the compliance will be evaluated based on a three-year rolling average of acres harvested. Because of adjacency restrictions contained in the Forest Practice Rules, GDRC will be limited in the annual number of acres they can enroll. The first THP slated for enrollment exceeds 75 acres, primarily because significant work is needed on the primary road that accesses their holdings. The existing road, which staff inspections have revealed as a significant sediment source, will be extensively rebuilt and rerouted. THP's to be enrolled in the following two years will have to result in a moving average of 75 acres over the three years.

Effluent Limitations

The effluent limitations contained in the WWDRs are based on the 125% above background, harvest related landslides sediment delivery remaining below. Staff utilized the Empirical Peak Flow Reduction Model (Peak Flow Model) and the Empirical Harvest-Related Landslide Sediment Delivery Reduction Model (Landslide Reduction Model) to inform our decisions. However, the models themselves are not used as effluent limitations, because the pace of GDRC's activities under this permit will keep them from approaching the thresholds derived from the models.

INTEGRATION OF WWDRS WITH OTHER PROGRAMS

The Timber Harvest Plan Process

The WWDRs were structured to make use of the existing timber harvesting plan (THP) review process. Prior to a project (THP) being enrolled under the WWDRs, it will have first undergone environmental review and public disclosure under the THP review process led by the California Department of Forestry and Fire Protection (CDF). The WWDRs rely on the CDF process to fulfill the California Environmental Quality Act (CEQA) requirements, thereby alleviating the need for the project to undergo environmental review at the time of enrollment under the WWDRs.

Similar to the General WDRs, the proposed WWDRs require that specific technical reports be included either as part of the THP or submitted with the WWDRs application package, such as: annual reports on the ECP progress, annual receiving water monitoring data, an erosion control plan for the project area, a petroleum spill prevention plan and other reports as directed by the Executive Officer.

The first GDRC THP that will be proposed for enrollment under these WWDRs is working its way through the THP process (THP No. 1-06-090). It calls for using the clearcut regeneration method on 81 acres, with 14 acres of selective harvesting. The last entry into this area began in 1990, and ended around 1995.

Total Maximum Daily Loads

Regional Water Board staff are developing Total Maximum Daily Loads (TMDLs) for sediment in Elk River and Freshwater Creek. These WWDRs are a near-term permitting strategy to allow the Discharger coverage for timber harvest operations while we develop the TMDLs, which are the long-term watershed recovery approach. The intent is that the TMDLs will rely on the Regional Water Board's existing authorities within the framework of watershed restoration. The WWDRs currently proposed will likely be revised once TMDLs are complete and implementation plans are in place. Cooperation, participation and support by the Discharger will be necessary to ensure the TMDLs are completed as quickly as possible.

Small Landowner Permitting

Pursuant to Board direction at the board meeting on May 8, 2006, after adoption of this permit, staff will now shift its efforts to developing an appropriate permitting mechanism for small landowners in the Elk and Freshwater watersheds.

PRELIMINARY STAFF
RECOMMENDATION:

Adoption of Resolution No. R1-2006-0042 and
Order No. R1- 2006-0043